

IN THE NORTH CAROLINA GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

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|-------------------------|---|-------------------------------|
| STATE OF NORTH CAROLINA |) | CHOWAN COUNTY |
| |) | |
| versus |) | 21-CRS-000105, 21-CRS-050170, |
| |) | 21-CRS-050229, 21-CRS-050230 |
| CASSANDRA HOLCOMB, |) | 21-CRS-050231, 21-CRS-050232. |
| Defendant. |) | |

TRANSCRIPT

October 31, 2022, Criminal Administrative Session

Transcript of proceedings taken in the General Court of Justice, Superior Court Division, Chowan County, North Carolina, at the October 31, 2022, Criminal Administrative Session, before the Jerry R. Tillett, Judge of said court.

APPEARANCES:

Alexis Massengill
Assistant District Attorney
Elizabeth City, North Carolina,
On behalf of the State.

Preston Wade Tyndall
Elizabeth City, North Carolina,
Attorney for the defendant.

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1 (Following proceedings took place on Monday,
2 October 31, 2022, in Chowan County:)

3 MS. MASSENGILL: Your Honor, case number 24,
4 Cassandra Holcomb. Mr. Tyndall has a motion before the
5 Court and the State has a motion as well.

6 MR. TYNDALL: Yes, Your Honor. I filed a motion
7 to withdraw in this case. And the rationale for that is in
8 my motion. I would say that, ask the Court, if the Court
9 would refer, essentially, my client has requested that I
10 withdraw. She's written me, as well as several members, I
11 believe, in the clerk's office, possibly others as well,
12 indicating some derogatory language about me, some concerns
13 and implications that I'm involved in trafficking in
14 children. There have been -- there's been at least one male
15 voice that called the office, they called about three times,
16 indicating that I was illegally representing Ms. Holcomb,
17 that she had fired me, that I needed to withdraw from the
18 case.

19 Based on all of that, I believe she intends to
20 represent herself. I made an appearance when we were in DSS
21 court throughout that proceeding, and I have withdrawn in
22 that. Ask to withdraw from this case at this time.

23 THE COURT: What says the State first? What is
24 your motion? You said you had a motion.

25 MS. MASSENGILL: Yes, Your Honor. The State does

1 have a motion to amend the bond.

2 Your Honor, at this juncture Ms. Holcomb has
3 received unsecured bonds. The initial bond, Your Honor,
4 issued in 21-CRS-50170, that was unsecured on its face.

5 THE COURT: The initial bond was unsecured?

6 MS. MASSENGILL: Yes, Your Honor. The initial
7 bond was unsecured, \$50,000 unsecured is what I have.

8 THE COURT: Okay. And what is she under now?

9 MS. MASSENGILL: It's still an unsecured bond in
10 that file number. However, Your Honor, the remaining file
11 numbers were originally secured bonds that were modified to
12 unsecured bonds, and I will provide the Court with a brief
13 background in regards to that decision.

14 Ms. Holcomb, whenever she was taken into custody
15 on these bonds, approximately back in July or August of
16 2021, she was pregnant at the time. Due to her pregnancy,
17 she was taken to Central Prison where she then gave birth to
18 her child. And after giving birth, she had complications
19 that cost the county additional money that the county could
20 not continue to keep up with. So the State agreed to
21 unsecure her bond pending her medical rehabilitation.

22 It is upon the State's information and belief that
23 Ms. Holcomb is fully recovered from giving child birth. She
24 is in no further need of additional medical treatment to
25 where re-securing those bonds would be appropriate at this

1 time.

2 In addition, Your Honor, the State, upon
3 information and belief, Ms. Holcomb has traveled out of
4 state while under bond. My understanding, Your Honor, if
5 you will give me just one moment, that she traveled back on
6 September 15th to Ohio, to Illinois and to Iowa, which are
7 all out of this jurisdiction of North Carolina.

8 In addition, Your Honor --

9 THE COURT: Ohio, Illinois and where? What was
10 other one?

11 MS. MASSENGILL: Iowa.

12 THE COURT: All right.

13 MS. MASSENGILL: In addition, Your Honor, Ms.
14 Holcomb, since being out on bond, specifically her release
15 conditions state not to have any contact with her children
16 until the disposition of your case. The State has
17 information that Ms. Holcomb has made contact indirect with
18 one of the victims of the pending matter by sending her a
19 Christmas gift around December of 2021.

20 And that will be the basis of the State's bond
21 motion.

22 THE COURT: What were the bonds? When you say
23 they were secured, what amounts were they?

24 MS. MASSENGILL: In line 105, \$25,000 secured.

25 THE COURT: Which one?

1 MS. MASSENGILL: Line 105 -- excuse me, the first
2 file number, 105, 21-CRS-105.

3 THE DEFENDANT: Your Honor, I object to this
4 motion.

5 THE COURT: I'm sorry?

6 THE DEFENDANT: I object to her motion.

7 THE COURT: Okay. Wait just a minute. So the
8 bonds that are reflected on the calendar are the correct
9 bonds now?

10 MS. MASSENGILL: Yes, sir.

11 THE COURT: And the only one -- and there's only
12 one that is secured right now?

13 MS. MASSENGILL: Yes, Your Honor, and it's the
14 105.

15 THE COURT: But the others were -- and the bonds
16 that were made unsecured after the fact are in the amounts
17 as reflected on the calendar, is that correct?

18 MS. MASSENGILL: Yes, sir.

19 THE COURT: All right. At this point, first, I'm
20 going to -- I haven't -- well, the attorney is not allowed
21 to withdraw yet so speak to your attorney first before you
22 say anything to me.

23 MR. TYNDALL: Your Honor, would you like me to
24 respond to the State's bond motion?

25 THE COURT: Does she have anything she wants to

1 offer in regards to that?

2 MR. TYNDALL: Your Honor, I would just state that
3 these bonds were unsecured about a year ago, if not longer
4 than that. My client -- the purpose of bonds, as we have
5 heard in prior cases, is to make sure that she appears and
6 make sure the community is safe. As far as her appearance,
7 she's appeared at every court date, both DSS and criminal.
8 As far as the community being safe, all of the alleged
9 victims in this case are in the custody of Social Services.
10 My client was denied any contact with those children. I
11 believe the State is relying on witnesses that are outside
12 of the courtroom, which I would like the Court to take that
13 into account for purposes of reliability. Since none of the
14 people alleged to be witnesses in the misconduct are present
15 in the courtroom today, which she would deny that she has
16 violated any conditions of her release and deny that she's a
17 danger to the community. And she would state that she's
18 made all of her court dates.

19 THE COURT: All right. Anything further from
20 either party?

21 MR. TYNDALL: Not in regards to that motion, Your
22 Honor. Well, let me ask Ms. Holcomb.

23 THE COURT: All right. I do think that there is a
24 serious concern about the contact with the children. I do
25 find that the reasons for the afore-referenced modifications

1 are no longer applicable. And I think, therefore, that the
2 bonds should be a reasonable bond for each charge.

3 What might the defendant's record level be, if
4 convicted?

5 MS. MASSENGILL: Level I, Judge.

6 THE COURT: For everything?

7 MS. MASSENGILL: Yes, sir.

8 THE COURT: So the accessory after the fact is to
9 what?

10 MS. MASSENGILL: The statutory sex offense, Your
11 Honor.

12 THE COURT: So that's going to be -- you've got a
13 C, you have got -- and then the next one is negligent child
14 abuse, serious bodily injury, is that correct, that's an E?

15 MS. MASSENGILL: Yes, sir.

16 THE COURT: And then you've got accessory after
17 the fact, what is that charge? What is that to, accessory
18 as to what?

19 MS. MASSENGILL: Statutory sex offense.

20 THE COURT: C also?

21 MS. MASSENGILL: Yes, sir.

22 THE COURT: All right. And then we have got
23 another accessory after the fact, same thing?

24 MS. MASSENGILL: Yes, sir.

25 THE COURT: C also?

1 MS. MASSENGILL: Yes, sir.

2 THE COURT: And then we have got another accessory
3 after the fact, that is C also?

4 MS. MASSENGILL: Yes, sir.

5 THE COURT: And then another accessory after the
6 fact, that is C also?

7 MS. MASSENGILL: Yes, sir. Actually, Your Honor,
8 I'm sorry, I misspoke. On 21-CRS-50232, that is a Class H
9 accessory after the fact.

10 THE COURT: 232?

11 MS. MASSENGILL: Yes, sir.

12 THE COURT: That is the last one?

13 MS. MASSENGILL: Yes, sir.

14 THE COURT: That is an H. These bonds are
15 woefully low and inadequate to begin with. Each C should be
16 within a range of 73 to a hundred, and there are three of
17 those. Each E should be 31 to 50, and the H should be 19.
18 I don't understand how you are complaining about those.

19 All right. Court will set secured bonds as
20 follows, which would be lower than that. The Court will
21 set, in 21-CRS-50232, Court will set a secured bond in the
22 amount of \$19,000 secured. In 21-CRS-050231, that should be
23 73 secured. In 21-CRS-050230, that should be 73 secured.
24 In 21-CRS-050229, that should also be 73 secured. In the
25 Class E, and that is as to a negligent, would not be subject

1 to the extra maximum for a sex offense, is that correct?

2 MS. MASSENGILL: Correct, Your Honor.

3 THE COURT: So it will just be the regular
4 amounts. That bond should be 40,000, and then the other
5 offense will be 73.

6 THE DEFENDANT: Your Honor, on and for the record,
7 I fired my attorney on September 5th and I have made the
8 clerk's office aware immediately as doing so.

9 THE COURT: Okay. But he is appointed. He is
10 appointed by the Court but you are entitled to represent
11 yourself, if that is what you want to do, provided that the
12 Court is able to make some findings and some procedural
13 requirements --

14 THE DEFENDANT: So, Your Honor --

15 THE COURT: -- under State versus Payne and
16 others.

17 THE DEFENDANT: On and for the record, what is
18 your decision on the motion?

19 THE COURT: I just ruled on that.

20 THE DEFENDANT: Did you resecure the bond?

21 THE COURT: I've set secured bonds in each of
22 these cases, as I have just identified.

23 THE DEFENDANT: So I will be taken into custody?

24 THE COURT: You will be taken into custody subject
25 to posting the bonds, yes, ma'am.

1 THE DEFENDANT: I don't understand.

2 THE COURT: Well, I have set what I determined to
3 be where the bonds should be to begin with for each case.

4 THE DEFENDANT: I heard that.

5 THE COURT: And they are secured because that is
6 what it should be on this kind of case. That is the answer
7 to that. Now you still have counsel as to that issue.

8 The other issue where you're asking him to be
9 removed, you're asking that he no longer be your counsel, in
10 other words, as well as his motion, is that correct?

11 THE DEFENDANT: Your Honor, I fired him.

12 THE COURT: Well that is not the way it works.
13 The Court appoints and he has to get permission to withdraw.
14 And you have a right to represent yourself. You don't have
15 a right to just pick and choose different counsel all along
16 the way. What did you want to do about that, if he were to
17 be allowed to withdraw?

18 THE DEFENDANT: I will represent myself.

19 THE COURT: Then that is where I'm talking about
20 the procedural requirements. The Court has to make some
21 findings about your ability to do so.

22 THE DEFENDANT: ~~Your Honor, on and for the record,~~
23 ~~I put you on notice for trespassing against the chest.~~ Trust

24 THE COURT: I don't know what that means, ma'am.
25 That's a bunch of gibberish. Focus on what you want to talk

1 about that is relevant to this proceeding.

2 THE DEFENDANT: Your Honor, well, on and for the
3 record, ~~I put you on notice for trespassing.~~

4 THE COURT: There is no such thing and this is
5 gibberish, and you know that as well. So you can either
6 address these things in a logical way or we're done with
7 this hearing.

8 THE DEFENDANT: Your Honor, I move the Court to
9 state the authority that the Court used --

10 THE COURT: ~~We're not going to play that game~~
11 ~~anymore. This is not what this Court is constitutionally~~
12 ~~authorized for and we're not going to go down that road.~~

13 THE DEFENDANT: Your Honor --

14 THE COURT: Anything further that might be
15 relevant to what we're really addressing here?

16 THE DEFENDANT: Well, Your Honor, I do still
17 object to her motion, on and for the record.

18 THE COURT: All right. Anything else?

19 THE DEFENDANT: (Defendant shakes head.)

20 THE COURT: I haven't heard a sufficient basis to
21 -- for me to make the determination of whether you're
22 capable of representing yourself, and that is what I needed
23 to hear after there was already a finding.

24 Are you telling me, Mr. Tyndall, that based upon
25 what's happened it will be impossible for you to zealously

1 represent the defendant within the bounds of law and
2 ethically?

3 MR. TYNDALL: Yes, Your Honor. The concern would
4 be that with people calling the office and terrorizing the
5 staff it would be difficult for me and her to confer any
6 further in the case, especially with her firm stance that
7 she's fired me, and she even mentioned in an e-mail that I
8 had no authority to further harass her, and I certainly
9 don't want there to be any further issues there.

10 THE COURT: I'm inclined to agree that we do not
11 have a voluntary servitude for purposes of court-appointed
12 counsel. It is up to the Court. You can't just change your
13 attorney any time you want to. But we always do not have
14 conscripted service.

15 So I'm going to find good cause to allow you to
16 withdraw in this case. I'm going to consider whether this
17 defendant is competent and capable of representing herself.
18 So at this juncture, and this juncture only, I will appoint
19 standby counsel until there is a hearing to determine
20 whether that would be necessary.

21 THE DEFENDANT: Your Honor, I object.

22 THE COURT: I understand. And you have a
23 constitutional right to represent yourself but I have to
24 make these findings. You're telling me you think you're
25 able to do that on these offenses?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: All right.

3 THE DEFENDANT: Again, Your Honor, I put you on
4 notice --

5 THE COURT: I'm not listening to any of that junk.

6 THE DEFENDANT: Your Honor --

7 THE COURT: Go take a seat over here.

8 MR. TYNDALL: Thank you, Your Honor.

9 THE DEFENDANT: Your Honor, you're trespassing
10 against the U.S. Treasury.

11 THE COURT: Mr. Bailiff, take the defendant.

12 MS. MASSENGILL: Your Honor, if and until
13 additional counsel is appointed, if we can continue this
14 case to February 20, please?

15 THE COURT: All right. Set this matter for
16 February 20th. I am appointing standby counsel at this
17 point until I determine whether she's capable of
18 representing herself in this case.

19 What else do we have?

20 (End of hearing.)

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C E R T I F I C A T E

STATE OF NORTH CAROLINA)
)
 COUNTY OF CHOWAN)

I, Amy R. Forbis, the officer before whom the foregoing proceeding was taken, do hereby certify that said hearing is a true, correct and verbatim transcript of said proceeding.

I further certify that I am neither counsel for, related to, nor employed by any of the parties to the action in which this proceeding was heard; and further, that I am not a relative or employee of any attorney or counsel employed by the parties thereto, and am not financially or otherwise interested in the outcome of this action.

This the 11th day of January, 2023.

Amy R. Forbis

Amy R. Forbis, RPR
 Official Court Reporter
 First Judicial District